

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

GREGORY CLEMMONS

Case No. C-3:11-cv-465

Petitioner,

**Judge Thomas M. Rose
Magistrate Judge Michael R. Merz**

-v-

WARDEN, Lebanon Correctional Institution

Respondent.

ENTRY AND ORDER OVERRULING CLEMMONS' OBJECTIONS (Doc. #16) TO THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS; ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS (Doc. #14) IN ITS ENTIRETY; DENYING CLEMMONS' MOTION FOR DISCOVERY; GRANTING IN PART AND DENYING IN PART CLEMMONS' MOTION TO EXPAND THE RECORD; DISMISSING CLEMMONS' PETITION FOR A WRIT OF HABEAS CORPUS WITH PREJUDICE AND DENYING ANY REQUESTED CERTIFICATE OF APPEALABILITY BECAUSE ANY APPEAL WOULD BE OBJECTIVELY FRIVOLOUS; AND TERMINATING THIS CASE

This matter comes before the Court pursuant to pro se Petitioner Gregory Clemmons' ("Clemmons") Objections (doc. #16) to Magistrate Judge Michael R. Merz's Report and Recommendations (doc. #14). The time has run and the Warden has not responded to Clemmons' Objections. This matter is, therefore, ripe for decision.

Upon review, the Magistrate Judge recommends that Clemmons' Motion for Discovery be denied, that Clemmons' Motion To Expand the Record be granted in part and denied in part and that Clemmons' Petition for a Writ of Habeas Corpus be dismissed with prejudice.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court

finds that Clemmons' Objections to the Magistrate Judge's Report and Recommendations are not well-taken, and they are hereby OVERRULED. The Magistrate Judge's Report and Recommendations is adopted in its entirety.

Clemmons' Motion for Discovery is denied. Also, Clemmons' Motion To Expand the Record is granted in part and denied in part. Clemmons' request to expand the record is granted except that the police reports and original complaint and probable cause affidavit are denied because their impact on the case is superseded by the subsequent grand jury indictment and trial verdict.

Clemmons' Petition for a Writ of Habeas Corpus is dismissed with prejudice. Further, because reasonable jurists would not disagree with this conclusion, Clemmons is denied any requested certificate of appealability and any appeal would be objectively frivolous. Finally, the captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

DONE and **ORDERED** in Dayton, Ohio, this Fifteenth Day of January, 2013.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Gregory Clemmons at his last address of record